

REMARKS

Claims 1, 5 through 8, 12, 15 through 44, 46, and 47 are pending in this Application. Claims 45 and 48 have been cancelled without prejudice or disclaimer, and claim 1, 8, 15 through 17, 22 through 24, 26 through 28, 30 through 34, and 42 have been amended. In addition, the specification has also been amended consistent with the Examiner's suggestions. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, Abstract, [0007], [0027] through [0029] of the corresponding US Pub. No. 2005/0022182. Applicants submit that the present Amendment does not generate any new matter issue.

Objections to the disclosure.

The Examiner objected to the disclosure, identified various perceived informalities in the written description of the specification, and courteously suggested remedial language. In response, the Examiner's suggestions have been implemented, thereby overcoming the states bases for the objections. Accordingly, withdrawal of the objections to the disclosure is solicited.

Claim Objections.

The Examiner objected to claims 15, 45, and 48, identified perceived informalities, and courteously suggested remedial language. In response, the Examiner's suggestions have been implemented, thereby overcoming the states bases for the objections. Accordingly, withdrawal of the claim objections is solicited.

Claims 1, 5 through 8, 12, and 15 through 48 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

In the statement of the rejection, the Examiner asserted that the recitation of “without use of a separate application from the application choices” is not disclosed in the specification. This rejection is traversed.

Initially, literal support is not required by the statute. *Univ. of Rochester v. G.D. Searle & Co.*, 358 F.3d 916, 923 (Fed.Cir.2004); *Regents of the Univ. of Cal. v. Eli Lilly & Co.*, 119 F.3d 1559, 1566-67 (Fed.Cir.1997). An applicant need not utilize any particular form of disclosure. *Carnegie Mellon Univ. v. Hoffmann-La Roche Inc.*, 541 F.3d 1115, 1122 (Fed.Cir.2008) (quoting *In re Alton*, 76 F.3d 1168, 1172 (Fed.Cir.1996)). Further, a patent applicant has the right to narrow an originally disclosed invention. *In re Johnson*, 558 F.2d 1008 (C.C.P.A.)

At any rate, in order to expedite prosecution, the objected to recitation has been cancelled, thereby overcoming the stated basis for the rejection. . Accordingly, withdrawal of the rejection of claims 1, 5 through 8, 12, and 15 through 48 under the first paragraph of 35 U.S.C. § 112 for lack of adequate descriptive support is not factually viable and, hence, solicit withdrawal thereof.

Claims 8, 12, 15 through 21, 26 through 29, 32 through 34, 38 through 40, 42, and 46 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

In the statement of the rejection the Examiner identified various perceived antecedent basis issues. This rejection is traversed.

Initially, the mere perceived lack of literal antecedent basis does not automatically trigger the ultimate legal conclusion of indefiniteness under the second paragraph of 35 U.S.C. §112. *Energizer Holdings Inc. v. ITC*, 435 F.3d 366 (Fed. Cir. 2006); *Bose Corp. v. JBL, Inc.*, 274

F.3d 1354 (Fed. Cir. 2001). At any rate, the Examiner's suggestions have been implemented, thereby overcoming the states bases for the rejection. Accordingly, withdrawal of the rejection of Claims 8, 12, 15 through 21, 26 through 29, 32 through 34, 38 through 40, 42, and 46 under 35 U.S.C. 112, second paragraph, as being indefinite is solicited.

Claims 30 through 34 were rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

This rejection is traversed. Specifically, independent claims 30-34 have been clarified by reciting "computer-readable storage medium", which is fully supported by a memory described in the specification at several occasions. Accordingly, the claimed subject matter falls within 35 U.S.C. §101. Applicants therefore solicit withdrawal of the rejection under 35 U.S.C. §101.

Claims 1, 5 through 8, 12, 15 through 43, 45, 46, and 48 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Gibbons et al.* (U.S. Publication 2004/0034853), in view of *Ketonen et al.* (U.S. Patent 6,973,478).

Claims 44 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gibbons et al.* and *Ketonen et al.*, further in view of *Aaltonen et al.* (U.S. Patent 7,006,964).

In stating the rejections, the Examiner asserted that one having ordinary skill in the art would have been led to modify the developer-oriented application downloading of *Gibbons et al.* by including a hyperlink (which does not directly display the URL link at the user terminal) of *Ketonen et al.* to retrieve the predicted result of retrieving an application descriptor for a user terminal. The Examiner further concluded that that one having ordinary skill in the art would have been led to modify whatever system and method can be said to have been reasonably

suggested by the combined disclosures of *Gibbons et al.* and *Ketonen et al.* by including the teachings of “determining whether additional application is required to properly execute the application requested by the client,” etc. from *Aaltonen et al.* in order to avoid reassessing the operability of the downloaded software. These rejections are traversed.

Specifically, there are fundamental differences between the claimed inventions and the applied prior art that undermine the obviousness conclusion under 35 U.S.C. §103. Independent claims 1, 16, and 30, directed to a method, a computer storage medium and a system including a server computer and a client device have been clarified by reciting, “... the link is **stored in a memory of the client device** and not to be displayed at the client device; **displaying at the client device the information included in the transmitted application information; initiating selection of an application contained in the displayed information; recalling from the memory a link corresponding to the selected application; reaching on the server computer an application descriptor via the link corresponding to the selected application; retrieving by the server computer the application descriptor; and transmitting by the server computer the application descriptor to the client device.**” Independent claim 22 directed to a server computer, has been clarified by reciting, “**reaching thereon an application descriptor via a link corresponding to an application selected at the client device; retrieving the application descriptor; and transmitting the application descriptor to the client device.**” Independent claims 8, 26, and 32 directed to a client device, have been clarified by reciting, “**storing the link in a memory of the client device; displaying, at the client device, information identifying the at least one application choice, but not the corresponding link; receiving a request for an application of the at least one application choices displayed; recalling from the memory a link corresponding to the application requested; sending a request externally**

for an application descriptor corresponding to the application requested, the request comprising the link to the application descriptor; and receiving the application descriptor requested.” None of these features are disclosed or suggested by the applied references, taken singly or in combination.

As admitted by the Examiner on page 7, third paragraph of the Office Action, *Gibbons et al.* do not disclose “not displaying a link corresponding to a selected application at the client device”. The reference to *Ketonen et al.* was relied upon by the Examiner to provide the admittedly missing feature.

The automated system in *Ketonen et al.* is built on top of a browser (col. 13, line 51; claims 1-3, 8, etc.) and navigates via hyperlinks (e.g., `<target>http://www.amazon.com/exec/obidos</target>` col. 10, line 7; FIGs. 3c, 3d, 4c, etc.). In graphical web browsers, hyperlinks are displayed in underlined blue text when not cached, but underlined purple text when cached. When a user activates the hyperlink (e.g. by clicking on it with the mouse), the browser will display the target of the hyperlink on the same equipment (e.g., a server) or device (e.g., a user terminal). If the target is not an HTML file, depending on the file type and on the browser and its plugins, another program at the same equipment or device will be activated to open the file thereon. Navigation via hyperlinks does not involve two separate equipment/device: a client device and a server computer as recited in the independent claims.

On the other hand, the link of the claimed embodiments is recalled from the memory of *the client device*, then reached on *the server computer* such that the server computer can retrieve an application descriptor via the link then transmits the application descriptor to the client device. Navigation via the link of the claimed embodiments involves two **different** equipments/devices. The invention is designed to avoid using a browser ([0001]), or to be independent of a particular

browser ([0006]). Because the invention removes the dependency of the download mechanism on the browser, applications may also be downloaded irrespective of the browser, if any, residing in the client device ([0010]). In contrast, the invention of *Ketonen et al.* is built on top of a browser and totally depends on the browser. It is well established that a rejection based on cited references having contradictory principles or principles that teach away from the invention is improper. *Ketonen et al.* simply do not teach or suggest “displaying at the client device the information included in the transmitted application information; initiating selection of an application contained in the displayed information; recalling from the memory a link corresponding to the selected application; reaching on the server computer an application descriptor via the link corresponding to the selected application; retrieving by the server computer the application descriptor; and transmitting by the server computer the application descriptor to the client device” as recited in the independent claims.

The reference to *Gibbons et al.*, was relied upon by the Examiner, at least on page 12, second paragraph of the Office Action, to provide the teachings of “having the **client device** store the link in the memory thereof and requesting the **server computer** for an application descriptor of a selected application by sending the link to application descriptor thereto”, and then “having the server computer transmit the application descriptor to the client device.” Contrary to the Examiner’s assertion, *Gibbons et al.* have a Download Application (DA) in the **client device** MT 110 store the application descriptor link therein, and request the Application Manager (AM) 112 of the **client device** MT 110 (FIG. 1) to download the selected application descriptor WAD 220 ([0076]; [0083]). *Gibbons et al.* simply do **not** involve the Application Download Server (ADS) 105 in retrieving the selected application descriptor after the ADS 115 provides the list of

available Download Objects (DOs) ([0075]), let alone “transmitting the application descriptor from the ADS 115 to the client device 110” as recited in the independent claims.

The additional reference to of *Aaltonen et al.* does not cure the argued deficiencies of *Gibbons et al.* and *Ketonen et al.* The reference to *Aaltonen et al.* is merely applied for an asserted teachings of “determining whether additional application is required to properly execute the application requested by the client,” etc.

It is therefore apparent that even if the applied references are combined as proposed by the Examiner, and Applicants do not agree that the requisite realistic motivation has been established, the claimed inventions would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir.1988). Applicants, therefore, submit that the imposed rejection under 35 U.S.C. §103 for obviousness predicated upon *Gibbons et al.* in view of *Ketonen et al.* and *Aaltonen et al.* is not factually or legally viable and, hence, solicit withdrawal thereof.

Based upon the foregoing, it is apparent that the imposed objections and rejections have been overcome, and that all pending claims are in condition for allowance. Favorable consideration is therefore solicited. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at 703-519-9954 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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August 27, 2009

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